

From: [Whitmore, Sharon](#)
To: [Serena Serassio](#)
Subject: RE: Indigenous Day Protest cases
Date: Wednesday, January 9, 2019 1:09:28 PM
Attachments: [image001.png](#)

On the way!

*Sharon Whitmore
Records Supervisor
Flagstaff Police Department
928-679-4015*

From: Serena Serassio [mailto:Serena.Serassio@flagstaffaz.gov]
Sent: Wednesday, January 09, 2019 1:06 PM
To: Whitmore, Sharon
Subject: Indigenous Day Protest cases

Good afternoon Sharon,

Can you please send me all of the videos and or photographs associated with the Indigenous Day Protest cases?

Referral	Arrest
Referred	12-17-2018 <input type="button" value="Calendar"/>
Report #	P18-13759
Police	509-Kuhns, Dustin <input type="button" value="Down"/>
Agency	Flagstaff Police Department <input type="button" value="Down"/>
Lab #	

Sincerely,

Serena S. Serassio
Serena S. Serassio
Assistant City Prosecutor
Flagstaff City Attorney's Office
(928)213-2025
serena.serassio@flagstaffaz.gov

From: [Lee Phillips](#)
To: [Serena Serassio](#)
Cc: [Ron Kanwischer](#)
Subject: Re: Indigenous Peoples Day Protest/March
Date: Thursday, January 10, 2019 4:49:55 PM

In that case I will look forward to seeing you tomorrow!

Sent from my iPhone

> On Jan 10, 2019, at 4:45 PM, Serena Serassio <Serena.Serassio@flagstaffaz.gov> wrote:
>
> Apparently the Court failed to set a trial date. That means the Court is going to require you to file Motions for Change of Pleas in all of these cases.
>
> It may be best for you to show up tomorrow on the D1 cases.
>
> Sincerely,
> Serena S. Serassio
>
> -----Original Message-----
> From: Lee Phillips <leephillips@leephillipslaw.com>
> Sent: Thursday, January 10, 2019 4:35 PM
> To: Serena Serassio <Serena.Serassio@flagstaffaz.gov>
> Cc: Ron Kanwischer <rkanwischer@flagstaffaz.gov>
> Subject: Re: Indigenous Peoples Day Protest/March
>
> When are the cases set for trial?
>
> Sent from my iPhone
>
>> On Jan 10, 2019, at 4:27 PM, Serena Serassio <Serena.Serassio@flagstaffaz.gov> wrote:
>>
>> Lee
>>
>> Should I advise Division 2 to set these for COP at time of trial?
>>
>> As for Britney Austin, the plea offer was sent to you.
>>
>> Sincerely,
>>
>> Serena S. Serassio
>>
>> -----Original Message-----
>> From: Lee Phillips <leephillips@leephillipslaw.com>
>> Sent: Thursday, January 10, 2019 4:05 PM
>> To: Serena Serassio <Serena.Serassio@flagstaffaz.gov>
>> Cc: Ron Kanwischer <rkanwischer@flagstaffaz.gov>
>> Subject: Re: Indigenous Peoples Day Protest/March
>>
>> Thank you both for the offers and I will convey them to my clients and get back to you before the next hearing. I assume we should be in a position to resolve the cases at that time unless we need to set a separate date for the change of pleas and/or acceptance of the diversion agreements.
>>
>> I am unclear as to the status of Brittney Austin's case. She is not on Serena's list of cases and it appears Ron only

has Maile Hampton's case?

>>

>> Sent from my iPhone

>>

>>> On Jan 10, 2019, at 3:10 PM, Serena Serassio <Serena.Serassio@flagstaffaz.gov> wrote:

>>>

>>> Lee,

>>>

>>> The cases are assigned to both Division 1 (M-Z) and Division 2 (A-L). Division 2 granted the continuances for the cases in Division 2. Division 1 (which regularly does not continue pretrial conferences) denied your request. The only case assigned to Ron is Maile Hampton. The remaining cases are assigned to me.

>>>

>>> I have sent you plea offers on all 9 of my cases with you. They were e-mailed to you through our data management system. If you have any questions about the plea offers, please do not hesitate to ask.

>>>

>>> Division 1 expects that you: (1) appear in court and advise the court as to whether you are affirming the bench trial date or taking the plea offer; (2) confer with me prior to the PTCs as to the case so I can relay to the court whether we are affirming the bench trial date or taking the offer. So, you can either call me today and we can discuss the cases or you can appear in court tomorrow at 9am.

>>>

>>> Sincerely,

>>> Serena S. Serassio

>>>

>>> -----Original Message-----

>>> From: Lee Phillips <leephillips@leephillipslaw.com>

>>> Sent: Thursday, January 10, 2019 2:27 PM

>>> To: Serena Serassio <Serena.Serassio@flagstaffaz.gov>

>>> Cc: Ron Kanwischer <rkanwischer@flagstaffaz.gov>

>>> Subject: Re: Indigenous Peoples Day Protest/March

>>>

>>> Serena and Ron,

>>> In your earlier email Serena you listed the names of 9 persons whose cases are assigned to you. One of them, Austin Begay, is not my client and I have no idea who he is. Of the other 7, I received a message from Genevieve that all of tomorrow's PTC, except Ramon Maestas and Selestyna Manning, were continued. There was no explanation for why 8 were continued but 2 were not. The message also said the two cases assigned to Ron, Britney Austin and Maile Hampton, were also continued. All of the cases that were continued were re-set for February 1st. The message also said that Judge Arujo said I could either come over tomorrow or call the City Attorney.

>>>

>>> I just am trying to make sense of the message and to confirm this information with both of you. Serena the two cases that were not continued, Maestas and Manning, are your cases and are in Division 1. How would you like to handle these two cases? I can call you or come by tomorrow, which ever you prefer? I would like to have them re-set with the others on February 1st so hopefully we can keep them all on the same schedule. Please let me know your thoughts.

>>>

>>> Ron, thank you for the offer on Ms. Hampton's case. I will certainly recommend she accept the diversion agreement.

>>> Lee

>>>

>>> Sent from my iPhone

>>>

>>>> On Jan 10, 2019, at 9:15 AM, Lee Phillips <leephillips@leephillipslaw.com> wrote:

>>>>

>>>> Ok thanks I was confused by the number of videos v number of officers. It makes sense now.

>>>>

>>>> Sent from my iPhone

>>>>

>>>>> On Jan 10, 2019, at 9:13 AM, Serena Serassio <Serena.Serassio@flagstaffaz.gov> wrote:

>>>>
>>>> Lee
>>>>
>>>> As you know from reading the police reports, there are 10+ officers who were involved in this investigation.
None of the videos are duplicates. Some officers have a couple of videos due to turning on/off their cameras.
>>>>
>>>> Sincerely,
>>>>
>>>> Serena S. Serassio
>>>>
>>>> -----Original Message-----
>>>> From: Lee Phillips <leephillips@leephillipslaw.com>
>>>> Sent: Thursday, January 10, 2019 8:59 AM
>>>> To: Serena Serassio <Serena.Serassio@flagstaffaz.gov>
>>>> Cc: Ron Kanwischer <rkanwischer@flagstaffaz.gov>
>>>> Subject: Re: Indigenous Peoples Day Protest/March
>>>>
>>>> Thank you, this information is helpful. The 25 videos, are they from 25 different officers? To save you time
and me money I am only requesting one copy of each Officer's video since I will be representing all of the
defendants.
>>>> Thank you.
>>>>
>>>>
>>>>
>>>> Sent from my iPhone
>>>>
>>>>> On Jan 10, 2019, at 7:54 AM, Serena Serassio <Serena.Serassio@flagstaffaz.gov> wrote:
>>>>>
>>>>> Lee
>>>>>
>>>>> I have uploaded the body camera videos form this case. There are 25 videos. I will burn the videos to
disks for you. At a rate of \$30/disk, your bill will be \$150. Upon receipt of the \$150, we will provide you with the
media.
>>>>>
>>>>> If you have any questions or concerns, please do not hesitate to let me know.
>>>>>
>>>>> Also, so you know precisely which prosecutor is handling with of your client's cases, here's the list of the
defendant's I'm assigned to:
>>>>> Austin Begay
>>>>> Sharon Baudelaire
>>>>> Alejandra Becerra
>>>>> Scott Begay
>>>>> Klee Benally
>>>>> Cody Fetty
>>>>> Mary Knoles
>>>>> Ramon Maestas
>>>>> Selestyna Manning
>>>>> Any clients charged not listed above is assigned to Ron.
>>>>>
>>>>> Sincerely,
>>>>>
>>>>> Serena S. Serassio
>>>>>
>>>>> -----Original Message-----
>>>>> From: Lee Phillips <leephillips@leephillipslaw.com>
>>>>> Sent: Monday, January 7, 2019 11:24 AM
>>>>> To: Serena Serassio <Serena.Serassio@flagstaffaz.gov>

>>>> Subject: Re: Indigenous Peoples Day Protest/March

>>>>

>>>> Hello Serena,

>>>> Since there are so many officer witnesses and defendants and because I will need to review the videos and photos the officers took to determine whether any of the defendants may have a defense(mistaken identity, they were on the sidewalk not the street, or some individuals did not obstruct traffic), I am filing a motion to continue the PTC or to waive my clients' presence at Friday's PTC since many are NAU students who are on break until next week and at least one lives and works in Phoenix. I will indicate you want us all to be there on Friday.

>>>> Lee

>>>>

>>>> Sent from my iPhone

>>>>

>>>> On Jan 7, 2019, at 9:38 AM, Serena Serassio <Serena.Serassio@flagstaffaz.gov> wrote:

>>>>

>>>> Lee

>>>>

>>>> Since this is Monday and the cases are set for PTCs on Friday, I expect to have plea offers for you on or before Friday.

>>>>

>>>>> As for media, you will need to send over checks in each of these cases for the media as it relates to their cases. I have not reviewed any of these cases, just yet. Consequently, I don't know what media does exist and have not requested any media.

>>>>

>>>>> If you are asking about how we should proceed at this point, we will have a PTC on Friday and I expect to see you and all of your clients at court on Friday.

>>>>

>>>>> Sincerely,

>>>>

>>>>> Serena S. Serassio

>>>>

>>>>> -----Original Message-----

>>>>> From: Lee Phillips <leephillips@leephillipslaw.com>

>>>>> Sent: Monday, January 7, 2019 9:37 AM

>>>>> To: Ron Kanwischer <rkanwischer@flagstaffaz.gov>

>>>>> Cc: Robert Brown <RBrown@flagstaffaz.gov>; Serena Serassio <Serena.Serassio@flagstaffaz.gov>

>>>>> Subject: Re: Indigenous Peoples Day Protest/March

>>>>

>>>>> Ok thanks you. Since we just received the initial reports and will need to review the media, to determine who may have obstructed and who may not have obstructed, should I file a motion to continue Friday's PTC or do you want me to come over for any reason?

>>>>

>>>>> Sent from my iPhone

>>>>

>>>>> On Jan 7, 2019, at 9:33 AM, Ron Kanwischer <rkanwischer@flagstaffaz.gov> wrote:

>>>>>

>>>>>> Then I guess I was incorrect about them all being assigned to Serena. This one is assigned to me.

>>>>>

>>>>>> -----Original Message-----

>>>>>> From: Lee Phillips <leephillips@leephillipslaw.com>

>>>>>> Sent: Monday, January 7, 2019 9:33 AM

>>>>>> To: Ron Kanwischer <rkanwischer@flagstaffaz.gov>

>>>>>> Cc: Robert Brown <RBrown@flagstaffaz.gov>; Serena Serassio <Serena.Serassio@flagstaffaz.gov>

>>>>>> Subject: Re: Indigenous Peoples Day Protest/March

>>>>>

>>>>>> Yes, she is one of the protesters and I filed my NOA earlier.

>>>>>

>>>>>> Sent from my iPhone

>>>>>>
>>>>>> On Jan 7, 2019, at 9:29 AM, Ron Kanwischer <rkanwischer@flagstaffaz.gov> wrote:
>>>>>>
>>>>>> Is Maile Hampton one of the protesters?
>>>>>>
>>>>>> -----Original Message-----
>>>>>> From: Ron Kanwischer
>>>>>> Sent: Monday, January 7, 2019 9:23 AM
>>>>>> To: 'Lee Phillips' <leephillips@leephillipslaw.com>; Robert Brown <RBrown@flagstaffaz.gov>
>>>>>> Cc: Serena Serassio <Serena.Serassio@flagstaffaz.gov>
>>>>>> Subject: RE: Indigenous Peoples Day Protest/March
>>>>>>
>>>>>> I believe they're all being assigned to Serena so that we have one prosecutor handling all of them.
Copying Serena on this email to check if I'm right.
>>>>>>
>>>>>> -----Original Message-----
>>>>>> From: Lee Phillips <leephillips@leephillipslaw.com>
>>>>>> Sent: Monday, January 7, 2019 9:20 AM
>>>>>> To: Robert Brown <RBrown@flagstaffaz.gov>; Ron Kanwischer <rkanwischer@flagstaffaz.gov>
>>>>>> Subject: Indigenous Peoples Day Protest/March
>>>>>>
>>>>>> Gentlemen,
>>>>>> Have these cases been assigned to anyone yet? I have recently received the initial disclosure from your
office and we have the initial pre-trials set for Friday morning. We are still waiting on the media(video, audio,
photos) of the incident and interviews of the officers. How do think we should proceed?
>>>>>> Lee
>>>>>>
>>>>>> Sent from my iPhone

From: [Lee Phillips](#)
To: [Brent Harris](#)
Cc: [Serena Serassio](#); [Lee Phillips](#)
Subject: IPD Protest - October 8, 2018
Date: Wednesday, March 20, 2019 4:23:27 PM
Attachments: [K. Beesley- Draft of Diversion Agreement W Restitution.pdf](#)
[M. Knoles- Diversion Plea Offer, 1-10-19.docx](#)
[IDP PROTEST CASES TIMELINE.pdf](#)

Brent,

Thank you for agreeing to meet with Serena and me tomorrow at 11:15 a.m. concerning the ten persons charged with obstructing traffic during the October 8, 2019 Indigenous People's Day Protest. Currently, 8 of the individuals have been offered diversion agreements and 2 individuals have received a plead to the charge offer.

The concerns I wish to discuss relate to the nature of the alleged offense (primarily the group chanting and carrying signs as they walked around the blocks near Heritage Square). The seriousness of or danger posed by the conduct compared to other similar protest actions including the three women who chained themselves to the entrance gate at the Police/Sheriff's complex and the persons protesting the actions of the Snowbowl Ski Resort.

In both of those situations the individuals I represented all received diversions or deferred prosecution agreements. They all were required to perform community service in lieu of a fine and to pay restitution to the "victims". In the current cases there is no claim of restitution and there is community service requested. In addition, all of the individuals (diversion and pleas) are being fined \$300 in the diversion cases (reduced to \$150 in the diversion cases upon successful completion) and \$150 in the two plead to charge cases.

The two individuals who have been denied diversion are Scott Begay and Brittney Austin. Mr. Begay had no prior record at the time of the protest but later was charged with a misdemeanor and received diversion while this case was still pending. Ms. Austin was denied diversion because of several prior protest actions in the Phoenix area. While she was cited 2-3 times previously she was not convicted and did not receive any form of diversion. The charges were either dismissed or reduced to a civil jaywalking citation.

We are requesting that the individuals in the current cases receive the same plea offers that the other protestors have received. (I am attaching an example of our current plea offers and the one the protestors who chained themselves to the gate received). If anything the conduct in the other protest cases were more serious and required numerous officers and EMT/Medical personnel to respond. They also were deemed serious enough that the protestor were actually arrested and jailed. In the current cases no one was arrested, nothing was damaged and much less officer/rescue personnel time

was required.

I have also asked my assistant to create from my file notes, a timeline of the court proceedings and plea negotiations that have occurred to date in this case. Hopefully this will provide additional insight into where we are at this time.

One final issue is the evidence, or lack thereof, in this case in the event the cases proceed to trial. The police reports created near in time to the incident only identify 2-3 individuals who were alleged to be in the streets (Klee Benally, Annika Natseway and Maile Hampton). The others were apparently identified later by some other means. I have watched all the body cam video and believe there is little video evidence of obstruction and little evidence of the identity of anyone seen obstructing. As a result there is little incentive for many of the individuals to plead guilty or accept diversion.

I understand these types of cases are time consuming, especially given the number of officer involved. If the cases end up being tried, I would hope we could do one big consolidated trial rather than 10 separate trials. I hope to see you tomorrow.

Thank you,
Lee

Law Office of Lee Phillips, P.C.
209 N. Elden Street
Flagstaff, AZ 86001
928.779.1560
928.779.2909 (fax)
www.LeePhillipsLaw.com

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From: [Lee Phillips](#)
To: [Brent Harris](#); [Serena Serassio](#); [Ron Kanwischer](#)
Subject: Meeting to Discuss Diversion Agreements/Pleas in IPD Protest Cases
Date: Friday, March 8, 2019 4:41:09 PM

Brent,

I called your office today and was reminded you are out of the office until next week. Once you get back and settled in can you let me know when you could meet with Serena and me as discussed in our previous email communications?

I believe 3 cases are set for a bench trial on March 18th and/or 19th. The other 7 cases have not been set for trial or change of plea pending the outcome of our meeting/discussion.

I currently have change of pleas and sentencings in Mohave County Superior Court on March 14th and 15th. Given the limited time I will file motions to continue the three cases set for the 18/19. If cases really are going to trial there numerous Rule 15 interviews which will need to be conducted so the current trial dates are not realistic.

Welcome back and I hope to see you in the near future.

Lee

Sent from my iPhone

From: [Serena Serassio](#)
To: [Colleen Calhoun](#); [Ron Kanwischer](#)
Subject: RE: Indigenous Peoples Day Protest/March
Date: Thursday, January 10, 2019 8:13:00 AM

(Sorry, I hit the wrong button a second ago)

Here's my list of defendants:

Austin Begay
Sharon Baudelaire
Alejandra Becerra
Scott Begay
Klee Benally
Cody Fetty
Mary Knoles
Ramon Maestas
Selestyna Manning

-----Original Message-----

From: Serena Serassio
Sent: Thursday, January 10, 2019 8:13 AM
To: Colleen Calhoun <CCalhoun@flagstaffaz.gov>; Ron Kanwischer <rkanwischer@flagstaffaz.gov>
Subject: FW: Indigenous Peoples Day Protest/March

Colleen

I'm in the process of burning the disks for Lee--there will be 5. We will need to document in each of the files that the media was picked up (Sorry, it's going to be a lot of data entry).

I don't know all of Ron's defendants who are part of this case, but here's the list of the cases I have:

Sincerely,

Serena S. Serassio

-----Original Message-----

From: Serena Serassio
Sent: Thursday, January 10, 2019 7:54 AM
To: 'Lee Phillips' <leephillips@leephillipslaw.com>
Cc: Ron Kanwischer <rkanwischer@flagstaffaz.gov>
Subject: RE: Indigenous Peoples Day Protest/March

Lee

I have uploaded the body camera videos form this case. There are 25 videos. I will burn the videos to disks for you. At a rate of \$30/disk, your bill will be \$150. Upon receipt of the \$150, we will provide you with the media.

If you have any questions or concerns, please do not hesitate to let me know.

Also, so you know precisely which prosecutor is handling with of your client's cases, here's the list of the defendant's I'm assigned to:

Austin Begay
Sharon Baudelaire

Alejandra Becerra
Scott Begay
Klee Benally
Cody Fetty
Mary Knoles
Ramon Maestas
Selestyna Manning

Any clients charged not listed above is assigned to Ron.

Sincerely,

Serena S. Serassio

-----Original Message-----

From: Lee Phillips <leephillips@leephillipslaw.com>
Sent: Monday, January 7, 2019 11:24 AM
To: Serena Serassio <Serena.Serassio@flagstaffaz.gov>
Subject: Re: Indigenous Peoples Day Protest/March

Hello Serena,

Since there are so many officer witnesses and defendants and because I will need to review the videos and photos the officers took to determine whether any of the defendants may have a defense(mistaken identity, they were on the sidewalk not the street, or some individuals did not obstruct traffic), I am filing a motion to continue the PTC or to waive my clients' presence at Friday's PTC since many are NAU students who are on break until next week and at least one lives and works in Phoenix. I will indicate you want us all to be there on Friday.

Lee

Sent from my iPhone

> On Jan 7, 2019, at 9:38 AM, Serena Serassio <Serena.Serassio@flagstaffaz.gov> wrote:
>
> Lee
>
> Since this is Monday and the cases are set for PTCs on Friday, I expect to have plea offers for you on or before Friday.
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> As for media, you will need to send over checks in each of these cases for the media as it relates to their cases. I have not reviewed any of these cases, just yet. Consequently, I don't know what media does exist and have not requested any media.
>
> If you are asking about how we should proceed at this point, we will have a PTC on Friday and I expect to see you and all of your clients at court on Friday.
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> Serena S. Serassio
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> Sent: Monday, January 7, 2019 9:37 AM
> To: Ron Kanwischer <rkanwischer@flagstaffaz.gov>
> Cc: Robert Brown <RBrown@flagstaffaz.gov>; Serena Serassio <Serena.Serassio@flagstaffaz.gov>
> Subject: Re: Indigenous Peoples Day Protest/March
>
> Ok thanks you. Since we just received the initial reports and will need to review the media, to determine who may have obstructed and who may not have obstructed, should I file a motion to continue Friday's PTC or do you want me to come over for any reason?

>
> Sent from my iPhone
>
>> On Jan 7, 2019, at 9:33 AM, Ron Kanwischer <rkanwischer@flagstaffaz.gov> wrote:
>>
>> Then I guess I was incorrect about them all being assigned to Serena. This one is assigned **to** me.
>>
>> -----Original Message-----
>> From: Lee Phillips <leephillips@leephillipslaw.com>
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>> To: Ron Kanwischer <rkanwischer@flagstaffaz.gov>
>> Cc: Robert Brown <RBrown@flagstaffaz.gov>; Serena Serassio <Serena.Serassio@flagstaffaz.gov>
>> Subject: Re: Indigenous Peoples Day Protest/March
>>
>> Yes, she is one of the protesters and I filed my NOA earlier.
>>
>> Sent from my iPhone
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>>> On Jan 7, 2019, at 9:29 AM, Ron Kanwischer <rkanwischer@flagstaffaz.gov> wrote:
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>>> Is Maile Hampton one of the protesters?
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>>> To: 'Lee Phillips' <leephillips@leephillipslaw.com>; Robert Brown <RBrown@flagstaffaz.gov>
>>> Cc: Serena Serassio <Serena.Serassio@flagstaffaz.gov>
>>> Subject: RE: Indigenous Peoples Day Protest/March
>>>
>>> I believe they're all being assigned to Serena so that we have one prosecutor handling all of them. Copying
Serena on this email to check if I'm right.
>>>
>>> -----Original Message-----
>>> From: Lee Phillips <leephillips@leephillipslaw.com>
>>> Sent: Monday, January 7, 2019 9:20 AM
>>> To: Robert Brown <RBrown@flagstaffaz.gov>; Ron Kanwischer <rkanwischer@flagstaffaz.gov>
>>> Subject: Indigenous Peoples Day Protest/March
>>>
>>> Gentlemen,
>>> Have these cases been assigned to anyone yet? I have recently received the initial disclosure from your office
and we have the initial pre-trials set for Friday morning. We are still waiting on the media(video, audio, photos) of
the incident and interviews of the officers. How do think we should proceed?
>>> Lee
>>>
>>> Sent from my iPhone

From: [Brent Harris](#)
To: [Serena Serassio](#); [Ron Kanwischer](#); [Robert Brown](#)
Subject: RE: Indigenous Peoples Day Protest/March
Date: Thursday, January 10, 2019 7:44:45 AM

I think that \$30/disc is what our policy requires - not \$30/disc/defendant. How he divvies it up between his clients is on him.

Brent D. Harris
Chief Prosecutor
City of Flagstaff
928-213-2025
bharris@flagstaffaz.gov

Have a nice day!

-----Original Message-----

From: Serena Serassio <Serena.Serassio@flagstaffaz.gov>
Sent: Thursday, January 10, 2019 7:42 AM
To: Ron Kanwischer <rkanwischer@flagstaffaz.gov>; Robert Brown <RBrown@flagstaffaz.gov>; Brent Harris <BHarris@flagstaffaz.gov>
Subject: RE: Indigenous Peoples Day Protest/March

How should we disclose and charge Lee for the media in this case? Usually we charge \$30/disk. There are 25 videos that I'm going to have to burn to multiple disks. If these defendants were represented by different attorneys, we would burn copies for each attorney. I'm guessing Lee won't go for paying for the disks for each defendant.

Sincerely,

Serena S. Serassio

-----Original Message-----

From: Serena Serassio
Sent: Monday, January 7, 2019 9:25 AM
To: Ron Kanwischer <rkanwischer@flagstaffaz.gov>; Robert Brown <RBrown@flagstaffaz.gov>; Brent Harris <BHarris@flagstaffaz.gov>
Subject: FW: Indigenous Peoples Day Protest/March

I don't know if I was the one who got all of these. My quick review of my PTCs this week shows that I have a few of them.

Sincerely,

Serena S. Serassio

-----Original Message-----

From: Ron Kanwischer
Sent: Monday, January 7, 2019 9:23 AM
To: Lee Phillips <leephillips@leephillipslaw.com>; Robert Brown <RBrown@flagstaffaz.gov>
Cc: Serena Serassio <Serena.Serassio@flagstaffaz.gov>
Subject: RE: Indigenous Peoples Day Protest/March

I believe they're all being assigned to Serena so that we have one prosecutor handling all of them. Copying Serena on this email to check if I'm right.

-----Original Message-----

From: Lee Phillips <leephillips@leephillipslaw.com>
Sent: Monday, January 7, 2019 9:20 AM
To: Robert Brown <RBrown@flagstaffaz.gov>; Ron Kanwischer <rkanwischer@flagstaffaz.gov>
Subject: Indigenous Peoples Day Protest/March

Gentlemen,

Have these cases been assigned to anyone yet? I have recently received the initial disclosure from your office and we have the initial pre-trials set for Friday morning. We are still waiting on the media(video, audio, photos) of the incident and interviews of the officers. How do think we should proceed?

Lee

Sent from my iPhone

From: [Lee Phillips](#)
To: [Ron Kanwischer](#)
Cc: [Serena Serassio](#)
Subject: Re: Maile Hampton/Protest March
Date: Tuesday, February 19, 2019 1:16:43 PM

Ok thank you. Maile was originally served at her job and appeared herself at her initial appearance at the outset before I got involved with the cases. I appeared for her at the 2/1 PTC and was unaware of the original trial date she was given when she appeared on her own. I will follow up with Serena and file the motions for all my clients. Thanks Ron for the heads up.

Lee

Sent from my iPhone

> On Feb 19, 2019, at 1:08 PM, Ron Kanwischer <rkanwischer@flagstaffaz.gov> wrote:
>
> Lee--
>
> Since Serena is much more familiar with these cases than I am, and since she's prosecuting all but one of the defendants, I'm going to defer to her as far as plea negotiations in my case are concerned.
>
> With regard to today's hearing, don't worry about it. I told Judge Chotena you'd be filing a motion to continue or a motion to set for COP. You do have to do one of those two things ASAP, though, as today was the trial date that appeared on your client's "Pre-trial Conference Order and Order Setting Trial," and no motion was ever filed to continue or vacate that trial date.
>
> --Ron
>
> -----Original Message-----
> From: Lee Phillips <leephillips@leephillipslaw.com>
> Sent: Tuesday, February 19, 2019 12:56 PM
> To: Ron Kanwischer <rkanwischer@flagstaffaz.gov>; Serena Serassio <Serena.Serassio@flagstaffaz.gov>
> Subject: Re: Maile Hampton/Protest March
>
> I have the ME from 2/1 in Maile's case but there is no new court date on the order. It just notes that a motion to vacate or to set for trial will be filed?
>
> Sent from my iPhone
>
>> On Feb 19, 2019, at 12:44 PM, Lee Phillips <leephillips@leephillipslaw.com> wrote:
>>
>> Hello Ron and Serena,
>>
>> Ron, I did not have Maile Hampton on the calendar and I don't see any minute entry from the 2/1 ptc's for any of the protest cases. I do have a note that Serena gave me a plea deadline of 3/1. Also that I advised the courts that I would be filing a motion to set all the cases for either a cop or trial. I was thinking that everyone had the 3/1 deadline.
>>
>> I know that most of the protesters cases are in Division II but I think the only one you have is Maile? The rest are Serena's cases?
>>
>> I have gone through the reports and all the body cam videos. From what I can tell the cases fall into three categories; 1) people who do not appear in the videos and I don't see any evidence that they obstructed any traffic; 2) people who do appear in the videos but are not seen obstruction traffic; and 3) people who are seen in the videos and can be seen to cross against the light , jaywalk or otherwise are marching in the street without any permit to do

so.

>>

>> The folks in category 1) seem to want to set their cases for trial based on what we think appears to be a lack of any evidence of obstruction or jaywalking.

>>

>> The people in category 2) are thinking much the same for the same reasons.

>>

>> The folks in category 3) are wanting to accept the diversion agreements but are asking for a reduction in the monetary obligations but are agreeable to the community service and to remaining law abiding. The two exceptions are the two whose offers are to plead guilty to the charge. They will also be asking that their cases be set for trial since they receive no benefit for the plead to the charge offers. That is Scott Begay and Brittney Austin.

>>

>> I can come over this afternoon after my 1:30 cmc to address Maile's case? If you are willing to consider reducing the \$\$\$ we can just set her for cop? If we can continue her case to allow for further discussion that would work as well? The conduct of marching without a permit does not seem to evidence any real criminal intent but I understand that the conduct may have annoyed or inconvenienced a few of our other citizens.

>>

>> Let me know how you want to proceed. I will be in Colorado from tomorrow until 2/26 with my girls visiting colleges before the deadline to decide which school to attend in the fall.

>> Lee

>>

>>

>>

>> Sent from my iPhone

From: [Lee Phillips](#)
To: [Serena Serassio](#)
Cc: [Brent Harris](#); [Ron Kanwischer](#)
Subject: Re: Protest Cases
Date: Tuesday, March 5, 2019 12:05:19 PM

Serena,

My concern was not so much that you did not respond to my February 19 proposal but that when you did respond yesterday morning, and rejected every portion of my proposal, you also stated that your original offers had to be accepted by 5:00pm yesterday. Which was unreasonable given your late response and the fact I was in Yavapai County and had no way to contact my 10 clients about your response by 5:00pm.

As to the trials, I had informed both judges at the last PTC that we were still discussing the terms of the plea offers and that I would file motions to set all cases for either trial or plea. Which is the reason none of the cases have been set for any sort of firm trial. When the court called today to say you wanted trials set I informed them that I had requested a meeting with you and Brent and that I would then file motions to set the cases for trial or plea I also advised that Brent was not available until he returned so it would be a few weeks before we had a final decision.

As to Frankie Tso, he is identified in the reports as having been identified by one of the officers as obstructing traffic and is in the list of persons who would be summoned to court with my clients. If he was ultimately not charged I assume someone realized the officer had misidentified Mr. Tso.

I look forward to meeting with you and Brent and hope we can reach some agreement to avoid trying all these cases over a non-violent protest march where no one was arrested or injured.

Lee

Sent from my iPhone

> On Mar 5, 2019, at 11:18 AM, Serena Serassio <Serena.Serassio@flagstaffaz.gov> wrote:

>

> Lee

>

> To be clear, your e-mails to Ron and myself requesting a modification to the plea offers were sent (1) while I was out of the office with a terrible cold and (2) when I was in the midst of preparing pretrial conferences last week. So, no, I did not respond to your e-mails immediately. Rather, I responded at the first opportunity I had. I would note the plea offers were issued on January 10th and the media was picked up by your office on January 11th (the date of the pretrial conferences). You attempt to make it appear as though I have completely ignored you on these cases. You fail to recall the series of e-mails about the plea offers on January 22nd and 28th with regards to Brittney Austin and Scott Begay's plea offers.

>

> Let's also properly characterize your client's cases. Brittney Austin and Scott Begay were given plea offers because their histories make them ineligible for diversions. I would also distinguish this case from the protest at the Law Enforcement Property. The videos show your clients blocking traffic and blatantly ignoring the officer's requests. The diversions and plea agreements are identical--with the difference being the diversion/conviction. You have also been provided bad information from your clients that Frankie Tso has been charged--this office does not have any case with Frankie Tso.

>

> We do have bench trials set on with Selestyna Manning, Ramon Maestas and Maile Hampton. This is why I imposed a March 1st deadline on the plea offers--so I would have sufficient time to notice witnesses and not let these cases drag on. Unfortunately, the court has failed to schedule any of the other cases for bench trials.

>

> Sincerely,

> Serena S. Serassio

>

> -----Original Message-----

> From: Lee Phillips <leephillips@leephillipslaw.com>
> Sent: Monday, March 4, 2019 10:29 PM
> To: Brent Harris <BHarris@flagstaffaz.gov>
> Cc: Serena Serassio <Serena.Serassio@flagstaffaz.gov>; Ron Kanwischer <rkanwischer@flagstaffaz.gov>
> Subject: Re: Protest Cases
>
> Hello Brent,
> No trials have been set so no witnesses noticed. 10-15 FPD Officer witnesses. 30-50 civilian witness according to officers reports. 10 body cams.
>
> Ten defendants charged with obstructing public roadway during anti-Columbus Day protest. No arrests made that day, all summoned later. 8 defendants with diversion offers, 2 with plead to the obstruction of traffic charge offers.
>
> All offers include 40 hours CS and \$300 fine. 8 cases in D2, 2 cases in D1.
>
> Counter was the same offers made in the case of three women who intentionally chained themselves to the gate at the Sheriff's Dept. to block officers entrance/exit to protest Sheriff's policy of detaining suspected undocumented persons for 48 hours after local charges are resolved to allow notice to ICE and time for to to pick them up. Offer was diversion with CS.
>
> Yes it can wait until you are back. I can be available for a meeting anytime after you return. Thank you for your prompt response.
> Lee
>
> Sent from my iPhone
>
>> On Mar 4, 2019, at 8:44 PM, Brent Harris <BHarris@flagstaffaz.gov> wrote:
>>
>> I am not available for a meeting until after Monday March 11, preferably Tuesday March 12 or after, as I'll be out of country from the 6th to the 10th. I do prefer that the prosecutor's plea offers be consistent for cases with similar facts regarding defendants with similar criminal histories. Each case merits its own resolution based on the goal of seeking justice as a result. When are the trials set? Have witnesses been noticed? Do we have time to meet and confer given my schedule?
>>
>> Brent D. Harris
>> Chief Prosecutor
>> City of Flagstaff
>> 928-213-2025
>> bharris@flagstaffaz.gov
>>
>> Have a nice day!
>>
>> -----Original Message-----
>> From: Lee Phillips <leephillips@leephillipslaw.com>
>> Sent: Monday, March 4, 2019 5:03 PM
>> To: Serena Serassio <Serena.Serassio@flagstaffaz.gov>
>> Cc: Ron Kanwischer <rkanwischer@flagstaffaz.gov>; Brent Harris <BHarris@flagstaffaz.gov>
>> Subject: Re: Protest Cases
>>
>> Serena,
>> I am
>> Responding to your email from this morning. I have been in Yavapai County today on an in custody meth/heroin sale case and just got back to town.
>>
>> I emailed you about the counter-proposal on February 19th. Ron responded immediately but I did not hear from you. Since I had not heard from you I emailed you again last week regarding my proposal to plead the majority and only set the two cases for trial where your offer was to plead to the charges(Scott Begay and Brittney Austin). There

are a few others whose names are not identified in the officers' reports from 10/8/18 and who maintain are not seen doing anything to obstruct traffic that night(Cody Fetter, Mary Knowles, Alejandra Becerra and Selestyna Manning). There is also one individual who is identified as Frankie Tso who I am told was charged but who my clients say was not present that night with them. I do not currently represent him but may by the time of trial.

>>

>> Since your offers are harsher than what Ron and Robert made to my three clients who admittedly knowing went onto the Sheriff's/FPD's property and chained themselves to the main gate to intentionally obstruct the officers' entrance/exit, O am requesting to meet with you and Mr Harris to discuss these cases before we waste a lot of time setting all the cases for trial and begin the numerous interviews trial preparation will require.

>>

>> As far letting you know about my clients' decision on the current pleas, given your failure to respond in a reasonable or timely fashion, I won't have time to inform them of your decision conveyed to me this morning on a day I had to be in Yavapai County on an older in custody matter. I will attempt to reach all of the clients and convey your response today to my counter-proposal.

>>

>> Once I have had a chance to speak with Brent about these cases we will be able to tell you exactly who wants to accept a plea and who wants to set their case for trial. I hope we can meet with Brent this week so we will know where we stand on pleas v trials. Also if anyone wants to accept your current offer once I can relay your response to them I will let you know that as well and perhaps we can take care of those pleas sooner.

>> Lee

>>

>> Sent from my iPhone

>>

>>> On Mar 4, 2019, at 8:20 AM, Serena Serassio <Serena.Serassio@flagstaffaz.gov> wrote:

>>>

>>> Lee

>>>

>>> The diversion agreements will not be changing for these defendants. The actions are significantly different than the previous protest that you reference. Each case is handled on a case by case basis and plea offers are designed accordingly.

>>>

>>> As for the others that were given regular plea offers, those pleas will also not be modified. As previously explained their behavior and prior histories are what have driven those offers. A civil plea offer does not adequately reflect their behavior.

>>>

>>> Please advise by the end of today if your clients are taking the plea offers. I need to notice the witnesses for trial.

>>>

>>> Sincerely,

>>>

>>> Serena S. Serassio

>>>

>>> -----Original Message-----

>>> From: Lee Phillips <leephillips@leephillipslaw.com>

>>> Sent: Friday, March 1, 2019 2:20 PM

>>> To: Serena Serassio <Serena.Serassio@flagstaffaz.gov>

>>> Cc: Ron Kanwischer <rkanwischer@flagstaffaz.gov>

>>> Subject: Protest Cases

>>>

>>> Serena,

>>> I wrote to you and Ron about the pleas in the protest cases on February 19th. Ron responded that he would defer to you since you have most of the cases. I have not heard back from you so I write to follow up with you.

>>>

>>> I proposed a counter offer concerning the diversion offers to allow the folks to do community service without an additional fine. This would be the same offer your office has made in similar protest cases, most recently on the cases of the three women who chained themselves to the gate at the jail in protest of the Sheriff's policy of detaining immigrants for 48 hours after they are released on the local charges to allow time to contact ICE and to have ICE

come pick the individuals for a civil violation of immigration laws. Most of not all of the clients are students or low income or both. In light of the nature of the conduct involved and lack of damage or arrests, community service seems like an adequate consequence.

>>>

>>> As to the individuals who are only offered a plea to the charges offer, I propose they be provided some benefit for waiving their right to a trial, and be allowed to plead to a civil jaywalking offense with the standard fine?

>>>

>>> This would allow us to set everyone for a cop and resolve the cases at the next hearing. If not we can set the plead to the charges for trial and hopefully resolve the rest with the no fine modification to the diversion offers. Thank you for your consideration of these proposals. If you would like to discuss these proposals further I am happy to come over to meet with you. Have a good weekend.

>>> Lee

>>>

>>> Sent from my iPhone

From: [Serena Serassio](#)
To: ["Lee Phillips"](#)
Subject: RE: Protest cases
Date: Friday, February 1, 2019 3:58:00 PM

The Manning and Maestas cases were not on the calendar because the court denied your motion to continue 2 weeks ago.

Sincerely,

Serena S. Serassio

Serena S. Serassio

From: Lee Phillips <leephillips@leephillipslaw.com>
Sent: Friday, February 1, 2019 1:53 PM
To: Serena Serassio <Serena.Serassio@flagstaffaz.gov>
Subject: Re: Protest cases

I didn't mean to ignore you today. Most of the cases were set in DII except for two case Manning and Maestas and neither of those case were on either courts' calendar today for some reason.

I should have decisions from all the clients by next week and will let you know what they decide. I then expect to file motions to either set for cop or trial. I will let everyone know the plea deadline is March 1st.

Lee

Sent from my iPhone

On Feb 1, 2019, at 1:28 PM, Serena Serassio <Serena.Serassio@flagstaffaz.gov> wrote:

Lee

I see that you indicated on the protest cases that you are going to file a motion to vacate or set for trial. You've now had the plea offers for 2 weeks and you have not spoken with me about most of the cases. The only correspondence I've gotten is with regards to two of the defendants. The plea offers are not going to be open indefinitely. Rather, the plea offers will expire March 1st. If your clients have not entered into the plea agreements prior to March 1st, I will be filing a motion for bench trials on these cases and a motion to join the cases.

If you would like to discuss these cases further, please let me know and we will schedule a time to do so.

Sincerely,

Serena S. Serassio

Serena S. Serassio
Assistant City Prosecutor
Flagstaff City Attorney's Office
(928)213-2025
serena.serassio@flagstaffaz.gov

From: [Bighorse, Genevieve](#)
To: [Serena Serassio](#); [Cathy Harrison](#)
Cc: [Stephanie Golding](#); [Colleen Calhoun](#)
Subject: RE: Protesters trial dates--missing trial dates
Date: Tuesday, March 5, 2019 10:35:54 AM
Attachments: [image001.png](#)

Correct.

From: Serena Serassio <Serena.Serassio@flagstaffaz.gov>
Sent: Tuesday, March 05, 2019 10:27 AM
To: Bighorse, Genevieve <GBighors@courts.az.gov>; Harrison, Cathy <CHarris@courts.az.gov>
Cc: Stephanie Golding <SGolding@flagstaffaz.gov>; Colleen Calhoun <CCalhoun@flagstaffaz.gov>
Subject: RE: Protesters trial dates--missing trial dates

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

So, to clarify, although the court scheduled 3 of these cases for bench trials, no dates have been set on the remaining cases.

Sincerely,

Serena S. Serassio

Serena S. Serassio

From: Bighorse, Genevieve <GBighors@courts.az.gov>
Sent: Tuesday, March 5, 2019 10:25 AM
To: Serena Serassio <Serena.Serassio@flagstaffaz.gov>; Cathy Harrison <charris@courts.az.gov>
Cc: Stephanie Golding <SGolding@flagstaffaz.gov>; Colleen Calhoun <CCalhoun@flagstaffaz.gov>
Subject: RE: Protesters trial dates--missing trial dates

Morning,

I did get in touch with Lee Phillips office and they indicated to me that Lee is having a meeting with Brent the week of March 11th and will notify the Court with an outcome.

Genevieve

From: Serena Serassio <Serena.Serassio@flagstaffaz.gov>
Sent: Tuesday, March 05, 2019 8:26 AM
To: Harrison, Cathy <CHarris@courts.az.gov>; Bighorse, Genevieve <GBighors@courts.az.gov>
Cc: Stephanie Golding <SGolding@flagstaffaz.gov>; Colleen Calhoun <CCalhoun@flagstaffaz.gov>
Subject: Protesters trial dates--missing trial dates

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning Cathy and Genevieve,

We had a PTC on the protesters on February 1st, but we still don't have the BT dates for most of the cases. Can you please advise if the court has set the trial dates and if so, when? Below is the list of all of the cases involved and the information I have.

			last hearing	BT
Austin	Britney	CM18-4858	2/1/2011	
Baudelaire	Sharon	CM18-4860	2/1/2011	
Beccera	Alejandra	CM18-4859	2/1/2011	
Begay	Scott	CM18-4852	2/1/2011	
Benally	Klee	CM18-4854	2/1/2011	
Fetty	Cody	CM18-4855	2/1/2011	
Hampton	Maile	CM18-4861	2/1/2011	3/18/2019
Knoles	Mary	CM18-4851	2/1/2011	
Maestas	Ramon	CM18-4853	1/11/2011	3/18/2019
Manning	Seletyna	CM18-4856	1/11/2011	3/18/2019

Thank you.

Sincerely,

Serena S. Serassio

Serena S. Serassio
Assistant City Prosecutor
Flagstaff City Attorney's Office
(928)213-2025
serena.serassio@flagstaffaz.gov

From: [Serena Serassio](#)
To: [Brent Harris](#); [Robert Brown](#); [Ron Kanwischer](#)
Subject: RE: Protestors
Date: Wednesday, January 9, 2019 8:10:00 AM

Brent

Did you want me to take the entire bunch? As of right now, I think there are a few assigned to Ron. I'm not sure if Robert ended up with any.

Sincerely,

Serena S. Serassio

Serena S. Serassio

From: Brent Harris
Sent: Tuesday, January 8, 2019 7:40 AM
To: Kuhns, Dustin <dkuhns@coconino.az.gov>; Robert Brown <RBrown@flagstaffaz.gov>
Cc: Serena Serassio <Serena.Serassio@flagstaffaz.gov>
Subject: RE: Protestors

They all have PTCs on Friday – Serena got assigned to the whole bundle. Cc'd her here.

Brent D. Harris
Chief Prosecutor
City of Flagstaff
928-213-2025
bharris@flagstaffaz.gov

Have a nice day!

From: Kuhns, Dustin <dkuhns@coconino.az.gov>
Sent: Tuesday, January 8, 2019 7:39 AM
To: Brent Harris <BHarris@flagstaffaz.gov>; Robert Brown <RBrown@flagstaffaz.gov>
Subject: Protestors

Fellers,

Coons and I issued 15ish summons for the protestors that blocked the streets back in November. Some of the names were Klee Benally, Miley Mae Hampton, Franky Tso. They all got charged with Blocking a Public Thoroughfare. Just curious to see if those all plead out or if anyone was taking us to court.

Dustin Kuhns